

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON TRANSPORTATION

Call to Order: By **CHAIRMAN ROGER SOMERVILLE**, on March 5, 2001 at 3:00 P.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Roger Somerville, Chairman (R)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. Darrel Adams (R)
Rep. Joe Balyeat (R)
Rep. Ronald Devlin (R)
Rep. Dave Gallik (D)
Rep. Steven Gallus (D)
Rep. George Golie (D)
Rep. Donald L. Hedges (R)
Rep. Jim Keane (D)
Rep. Gary Matthews (D)
Rep. William Price (R)
Rep. Allen Rome (R)
Rep. Frank Smith (D)
Rep. Donald Steinbeisser (R)
Rep. Karl Waitschies (R)

Members Excused: Rep. Sylvia Bookout-Reinicke, Vice Chairman (R)
Rep. Debby Barrett (R)

Members Absent: None.

Staff Present: Donna Huffman, Committee Secretary
Leanne Kurtz, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 58, SB 150, SB 153,
03/05/01.
Executive Action: SB 58, SB 150, SB 153.

HEARING ON SB 150

Sponsor: Senator Don Hargrove, SD 16.

Proponents: Dave Galt, Director of Montana Department of Transportation; Ronna Christman, Montana Petroleum Marketers Association; Barry Stang, Montana Motor Carriers Association.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Senator Hargrove said this bill provides a penalty for people who fail to put an appropriate decal on diesel fuel pumps to identify them.

Proponents' Testimony:

Dave Galt said in the last 2 years, the issues discussed in the fuel tax advisory council were fuel tax evasion. He said MDT supports HB 150.

Ronna Christman said they support SB 150. She said the members from MPMA, through a survey that was done, supported the fines and penalties.

Barry Stang said they support SB 150.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 7.8}

Rep. Gallik asked **Mr. Galt** if there is a penalty now. **Mr. Galt** said there is no civil penalty right now, but if there was, it would be criminal prosecution subject to a \$500 minimum fine up to \$2,000.

Rep. Gallik asked **Mr. Bob Turner** about criminal penalty. **Mr. Turner** said a person is guilty of a misdemeanor and upon conviction, shall receive a fine not to exceed \$1,000, or sent to a county jail, not to exceed 6 months, this bill takes that down to a civil penalty.

Rep. Gallik asked **Mr. Turner** if the civil penalty is \$100 per day or per violation. **Mr. Turner** said it is \$100 each time a person is found to be non-compliant.

{Tape : 1; Side : A; Approx. Time Counter : 10.6}

Chairman Somerville asked **Mr. Turner** if there is a requirement in this legislation for every dyed diesel nozzle to have a red plastic protector on it. **Mr. Turner** said it is not included in this legislation and to his knowledge, not in current law.

Ronna Christman said this is not a requirement by law, but it has become an industry standard and a lot of companies are doing this.

Dave Galt said this is a matter of educating people and by putting the decal on the dyed diesel fuel pumps, this will let them know it is dyed, untaxed, off road fuel.

Rep. Gallik stated his concerns to **Mr. Galt** about the \$100 civil penalty for failure to put a decal on these pumps only after notice of a hearing. He asked what the reason would be, to have a hearing. **Mr. Galt** said the important thing is they have never done a civil penalty within the Department of Transportation. He said they do this for any type of Administrative rule change, this is a reasonable process when making a change from the criminal sections to the civil sections.

{Tape : 1; Side : A; Approx. Time Counter : 17.9}

Rep. Juneau said to **Mr. Galt**, there should be clarifying language in the bill when to hold a hearing. **Mr. Galt** said this bill would allow a retailer to have a hearing if he/she wanted one.

Closing by Sponsor:

Senator Hargrove said the way this current law is, it puts people at risk of criminal court activities. He said this bill is reasonable to protect the trucking industry and agriculture industry.

Hearing on SB 58

Sponsor: Senator Mike Halligan, SD 34.

Proponents: Dave Galt, Director of Montana Department of Transportation.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Senator Halligan said, under current law, the penalties are harsh for misusing the dyed diesel fuel, which are criminal penalties. He said Section 1 of the bill is for gasoline civil penalties and Section 2 is for diesel fuel civil penalties. This bill is designed to bring people in compliance with the code without being too harsh on the first offense.

Proponents' Testimony:

Dave Galt said this also went through the Advisory Tax Council with similar efforts to help curb fuel tax evasion. This bill does change the civil penalty system from the criminal penalty system they have now for these offenses. They support SB 58.

Opponents' Testimony: none.

Questions from Committee Members and Responses:

{Tape : 1; Side : A; Approx. Time Counter : 27.4}

Chairman Somerville asked **Mr. Turner** if there is a need to have Section 1. **Mr. Turner** said Section 1 is the gasoline section, it is in addition to the civil penalty for gasoline that is already in the gasoline section.

{Tape : 1; Side : B; Approx. Time Counter : 1.4}

Rep. Gallus asked **Senator Halligan**, in Montana's criminal code, if there are fines and penalties for tax evasion. **Senator Halligan** said, in the Department of Revenue Code, yes there are. **Rep. Gallus** asked if the language in this legislation is consistent within the criminal penalty in Section 4. **Senator Halligan** said the criminal violation portion is consistent.

{Tape : 1; Side : B; Approx. Time Counter : 4}

Rep. Hedges asked **Mr. Turner** to clarify the need for this legislation. **Mr. Turner** said, in the interim, the Motor Fuel Advisory Council discussed the issue of use of dyed fuel on roads, because of easy access of dyed fuel at retail stations, and to make sure decals are on the pumps to make sure people are aware of which fuel they are buying. He said, under current law,

there is criminal penalty for abuse of dyed fuel on roads. It would be more effective to administer a civil penalty, and then with multiple convictions, it would be a criminal penalty. This would help enforce the dyed fuel program.

Rep. Gallik asked **Senator Halligan** to explain why the amending of the criminal penalty section. **Senator Halligan** said the purpose was to try to make it less harsh on those that use this kind of fuel such as, farmers, ranchers and people that use this kind of fuel, in terms of penalties. He said this will make it more in line with misdemeanor offenses, which is up to \$1,000.

Closing by Sponsor:

Senator Halligan said there needs to be a better education program for people, as well as a civil penalty for misuse of dyed diesel fuels. He urged a Do Pass.

{Tape : 1; Side : B; Approx. Time Counter : 14.2}

HEARING ON SB 153

Sponsor: Senator Jerry O'Neil, SD 42.

Proponents: Dave Galt, Director of Montana Department of Transportation; Ronna Christman, Montana Petroleum Marketers Association.

Opponents: none.

Informational Witnesses: none.

Opening Statement by Sponsor:

Senator O'Neil said this bill will prorate the 1% interest on a past due fuel bill daily rather than monthly. If prorated daily, there is some incentive to pay their fuel bill. This also increases the penalty from \$25.00 to \$100.00.

Proponents' Testimony:

Dave Galt said this bill does two things, one is it raises the minimum fine for distributive retail report from \$25.00 to \$100.00, and second, it allows for prorating daily. They support SB 153.

Ronna Christman said they don't have any opposition to this bill.

Opponents' Testimony: none.

Questions from Committee Members and Responses: none.

Closing by Sponsor:

Senator O'Neil closed.

EXECUTIVE ACTION ON SB 153

{Tape : 1; Side : B; Approx. Time Counter : 19.9}

Motion/Vote: REP. STEINBEISSER moved that SB 153 BE CONCURRED IN.
Motion carried 18-0.

Rep. Hedges will carry SB 153 in the House.

EXECUTIVE ACTION ON SB 150

Motion/Vote: REP. BALYEAT moved that SB 150 BE CONCURRED IN.
Motion carried 17-1 with Gallik voting no.

Rep. Balyeat will carry SB 150 in the House.

EXECUTIVE ACTION ON SB 58

Motion/Vote: REP. ADAMS moved that SB 58 BE CONCURRED IN. Motion
carried 17-0.

Rep. Gallus will carry in the House.

ADJOURNMENT

Adjournment: 4:15 P.M.

REP. ROGER SOMERVILLE, Chairman

DONNA HUFFMAN, Secretary

RS/DH

EXHIBIT (trh50aad)